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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/560,392	12/13/2005	Mattias Muller	053454	2550
38834 7590 10/01/2009 WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP 1250 CONNECTICUT AVENUE, NW SUITE 700 WASHINGTON, DC 20036				
EXAMINER				
DESAL, ANISH P				
ART UNIT		PAPER NUMBER		
1794				
NOTIFICATION DATE		DELIVERY MODE		
10/01/2009		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentmail@whda.com

**Office Action Summary****Application No.**

10/560,392

**Applicant(s)**

MULLER ET AL.

**Examiner**

ANISH DESAI

**Art Unit**

1794

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 June 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

***DETAILED ACTION***

1. Applicant's arguments in response to the Office action dated 01/06/09 have been fully considered. Support for newly added claims 31 and 32 is found in claims 10 and 22 that were originally presented.
2. In view of applicant's amendment, a new 35 USC Section 112-first paragraph rejection is made.
3. In view of applicant's amendment, a new 35 USC Section 112-second paragraph rejection is made.
4. The 35 USC Section 102(b) rejections based on Curiel (US 5,913,543) are withdrawn in view of applicant's amendment. Curiel does not teach or suggest "a second full-area or partial metal layer disposed on this surface relief structure, wherein the second....which is different from the first coloration or colour effect" as presently claimed. Similarly, the 35 USC Section 102(b) rejections based on Berger et al. (US 6,165,592) and the 35 USC Section 102(b)/103(a) rejections based on Berger et al. are withdrawn in view of the present amendment. Berger does not teach or suggest a second full-area or partial metal layer disposed on this surface relief structure, wherein the second....which is different from the first coloration or colour effect" as presently claimed.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. **Claims 1- 35 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.**

6. With respect to claims 1, 2, and 14, said claims recite "a **first**" full-area or partial metal layer "having a **first** coloration or colour effect" and "a **second** full-area or partial metal layer disposed on this surface relief structure, wherein the second full-area or partial metal layer has a second coloration or a colour effect which is different from the first coloration or colour effect." Specification as originally filed fails to provide support for the "**first**" full-area or partial metal layer "having a **first** coloration or colour effect" and "a **second** full-area or partial metal layer disposed on this surface relief structure, wherein the second full-area or partial metal layer has a second coloration or a colour effect which is different from the first coloration or colour effect" as presently claimed. While the portions of the specification pointed to by applicant provide support for other

functional layers, electrically conductive polymer layers, conductive color layers, and metal foil, they do not provide support for the above cited phrases.

7. With respect to claims 33-35, there is no support in the specification as originally filed to recite that the metal layer is an electrically conductive layer. It is submitted that while applicant points to page 10 lines 10-13 as support for claims 33-35, it is noted that while this provides support to recite that the electrically conductive layers can also be present on the substrate, this does not provide support to recite that the first full-area or partial metal layer is an electrically conductive layer as presently claimed.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. **Claims 1-35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

9. With respect to claims 1, 2, and 14 said claims recite "wherein the second full-area or partial metal layer has a second coloration or colour effect which is **different** from the first coloration or colour effect". The Examiner submits that said language is ambiguous because it is not clear as to how is the second coloration or colour effect different from the first coloration or colour effect. Are first metal and second metal layers made of different colored metals?

10. With respect to claims 6, 18, 31, and 32, said claims recite "functional layers". It is not clear as to what is meant by "functional layers". What function does applicant's layer perform? It is submitted that applicant has stated in his/her response on page 12 of 06/05/09 amendment that the term "functional layer" is conventional in the art. The Examiner respectfully disagrees because the term "functional layer" is ambiguous without setting forth any specific function. As such it is not clear as to what is meant by "functional layer".

### ***Conclusion***

**11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.**

**Mallik (US 5,044,707) discloses holograms with discontinuous metallization.**

**Ojster (US 5,251,937) discloses multilayer data carrier.**

**Okazaki et al. (US 5,421,618) discloses plastic card provided with a magnetic strip.**

**Abstract of WO 2004/014663A1 discloses a method for producing tamperproof identification.**

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

13. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANISH DESAI whose telephone number is (571)272-6467. The examiner can normally be reached on Monday-Friday, 8:00AM-4:30PM.

15. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Callie Shosho can be reached on 571-272-1123. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

16. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. D./  
Examiner, Art Unit 1794

/Callie E. Shosho/  
Supervisory Patent Examiner, Art Unit 1794